

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Public Health Service

Indian Health Service

Billings Area

Justification for Other than Full and Open Competition (JOFOC)

30 USC 2204(c)(2) or 41 USC 253(d)(2)

The supplies and/or services required for this procurement are needed as soon as possible and represent an unusual and compelling urgency. The current level of service being carried out by the Indian Health Service would seriously impact this agency's ability to carry out its requested function in providing quality services to the population which it serves.

Check Box that applies:	<input checked="" type="checkbox"/> Sole Source 8(a) FAR 6.302-1	<input type="checkbox"/> Urgent & Compelling/Emergency FAR 6.302-2
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Vendor Name:	Midland Mechanical DBA Stevens Brothers Mechanical	Requirement Number:	IHS1064252
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ACQUISITION BACKGROUND AND OBJECTIVES

Introduction: The hot water heating system at the Northern Cheyenne Health Center is comprised of three boilers, two main loop hot water pumps, an air separator and expansion tank that delivers hot water to the individual heating loads within the facility. The building continues to be one of the highest energy consumers within the Billings Area based on a Btu/square foot basis. The hot water heating system which is required to be operated year-round has been identified has a potential area to decrease energy consumption. The project was awarded with ARRA funds.

Location of Performance: USPHS Indian Health Service
Being Requested by: Northern Cheyenne Service Unit
Facilities Maintenance Department
John Jordan, Project Officer (HSSAR 306.303-2 (a) (1))
PO Box 70
100 Cheyenne Avenue
406-477-4485

Background Information: In an on-going effort to increase energy efficiency within the facility, several energy conservation measures were identified in the hot water heating system. Specifically, variable speed drives installed on the hot water pumps would allow a reduction in energy consumption when the system was at minimal load during the summer months.

Scope of Work: - Provide and install two (2) new 10 HP/480 VAC Variable Frequency Drives (VFD) with 3-contactor bypass enclosures. Provide start/stop, status, and speed control for both drives and include programming within the Alerton Building Control System, startup, and checkout.

- Provide and install new piping for primary and secondary boiler system for the three existing boilers. Provide and install a new glycol feeder and hydronic separator. Provide and install three (3) new primary pumps for existing boilers, associated piping and equipment. Provide and install five (5) new relays for boilers 1,2,3 control. Provide and install three (3) new flow interlock switches. Provide and install two (2) new primary HWS and HWR sensors with wells. Provide and install a new high-fire lockout aquastat and well for the Weil McLain boiler.

Purchase Order

(This acquisition is 1) an entity in itself. (HHSAR 306.303-2(3).

Statutory Authority: 6.301 (a) & (b) and 6.303-2(a)(4)

41 U.S.C. 253 (c) as implemented by FAR 6.302. "All acquisitions which limit offerors to Indian owned enterprises in accordance with PHSAR 380.5 must prepare a JOFOC under FAR 6.302 and when the contracting officer cannot determine that at least two responsible Indian enterprises shall thoroughly document the sole-source nature of the acquisition in the JOFOC". (HRSA Policy Letter 87-26 citing FAC 84-23).

Applicability of Authority: (FAR 6.302)

The contract will be awarded via the SBA 8a procedures. (FAR 6.302-1)(a)(2)(b).

A Justification shall be supported by verifiable facts rather than on mere opinions. Documentation in a JOFOC must be sufficient to permit an individual with technical competence in the area to follow the rationale. (FAR 6.303-1 (a) (1); (2) & (3); HHSAR 306.303-1).

A lack of planning, either from a delivery or from a funding viewpoint is not a sufficient reason to justify a JOFOC, especially in the use of this exception. (FAR 6.301 (c) (1) & (2).

When a program/department chooses to obtain certain goods/services/supplies by contract without full and open competition, it shall furnish the Contracting Officer with an explanation as to why a JOFOC is more feasible. All JOFOC's will be reviewed by the Contracting Officer (HHSAR 306.303-1 (g).

Unusual and Compelling Urgency (FAR 6.302-2): This authority (41 U.S.C. 253 (c) (2) is intended to be used only when the "need for the supplies or services is such unusual and compelling urgency that the Government would be seriously injured". Where this exception is used, the specific extent and nature of the harm to the Government must be stated in Section entitled, Other Facts Supporting Use of This Exception. This Exception 41 U.S.C. 253 (c) (2) authority should not be used to circumvent synopsis, solicitation and competition requirements.

This non-competitive procurement is being conducted in accordance with Federal Acquisition Regulation (FAR) Part 13, Simplified Acquisitions, Section 8(a) of the Small Business Act (15 U.S.C. 637(a)); and the American Recovery and Reinvestment Act of 2009 (Pub.L. 111-5) (Recovery Act).

Efforts to Obtain Additional Sources N/A.

None. 8(a) noncompetitive procurement in accordance with Section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

Determination that Anticipated Cost will be Fair and Reasonable: Fixed.

Fixed Price.

Price proposal attached.

The price of this acquisition will be fair and reasonable to the Government.

Based on previous purchases of similar services.

Market Survey: N/A.

Other Facts Supporting the Use of the Exception: N/A.

Sources that Expressed interest in the Proposed Requisition: *In the event of an Urgent competitive acquisition, there might be more than one source listed, otherwise, list the one source that this acquisition would be obtained from.

Midland Mechanical SBA Stevens Brothers Mechanical PO Box 20224 Billings, MT 59104 256-7823		
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Steps to Further Competition:

Services will be purchased this fiscal year. (Sec. 7.101 for assistance and further description of methods or explanations) (HHSAR 306.304 (e) & (f) and to address requirements cited for Competition Advocate, FAR 6.502 (a) & (b)).

FAR 6.303.2 (6) now requires a statement as to whether FEDBIZOPPS or the Government Point of Entry will be publicized as required by Subpart 5.2 and if not, which exception under FAR 5.202 applies.

Contracting Officers Certification: The signature of the Contracting Officer on this Justification is evidence that he/she has determined that this document is both accurate and complete to the best of his/her knowledge and belief.

WORK REQUIREMENTS

- Provide and install two (2) new 10 HP/480 VAC Variable Frequency Drives (VFD) with 3-contactor bypass enclosures. Provide start/stop, status, and speed control for both drives and include programming within the Alerton Building Control System, startup, and checkout.

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Deliverables:


- Provide and install two (2) new 10 HP/480 VAC Variable Frequency Drives (VFD) with 3-contactor bypass enclosures. Provide start/stop, status, and speed control for both drives and include programming within the Alerton Building Control System, startup, and checkout.


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SUPPORTING INFORMATION

Administration: This contractor will be required to abide by all the rules and regulations that govern the Privacy Act, the Indian Health Service and the Department of Health and Human Services. The primary agent/official responsible for supervising this procurement, in a project officer capacity and who will be verifying that all supplies and/or services have been received and delivered will be John Jordan, Project Officer, Northern Cheyenne Service Unit.

TECHNICAL / REQUIREMENTS PERSONNEL CERTIFICATION:

RECOMMENDED:  7/8/09
Project Officer Date

CONCURRENCE:  7/8/09
Department Supervisor / Service Unit Director Date

APPROVED:  7/6/07
Contracting Officer Date

As evidenced by their signatures on this Justification For Other than Full and Open Competition document, the technical and requirements personnel have certified that any supporting data contained herein, which is their responsibility, is both complete and accurate. (FAR 6.304 and HHSAR 306.303-2 (c) and HHSAR 306.304)

SPECIAL CONTRACTING CONSIDERATIONS

For full text information, please contact the Billings Area Contracting Department

- INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT:
- CRIME CONTROL ACT OF 1990:
- FAR 52-249-4 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (APR 1984):
- FAR 52-249-12 TERMINATION FOR CONVENIENCE (PERSONAL SERVICES) (APR 1984):
- 5 USC 552A Privacy Act of 1974 and 45 CFR 5 Health and Human Services Privacy Act:
- Federal Tort Claims Act:
- Service Contract Act of 1965 As Amended:
- Tax Reporting Requirements:
- FAR 52.229-3 Federal, State and Local Taxes Apr 2003
- FAR 52.229-4 Federal, State and Local Taxes (State and Local Adjustments) Apr 2003
- FAR 52.232-18 Availability of Funds Apr 1984
- Health Insurance Portability and Accountability (HIPAA):
- IHS Computer Security: